

MARKET CONDUCT EXAMINATION REPORT
AS OF JUNE 30, 2004

United American Insurance Company
3700 South Stonebridge Drive
McKinney, TX 75070-8080

NAIC Group Code: 0290
NAIC Company Code: 92916
Colorado Company No.: 205

EXAMINATION PERFORMED
for the
STATE OF COLORADO
DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE

**United American Insurance Company
3700 South Stonebridge Drive
McKinney, TX 75070-8080**

**MARKET CONDUCT
EXAMINATION REPORT
as of
June 30, 2004**

Examination Performed by

**Stephen E. King, CIE
Jo-Anne G. Fameree, CIE, FLMI, AIRC, ACS**

Independent Market Conduct Examiners

October 19, 2004

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway, Suite 850
Denver, Colorado 80202

Commissioner Dean:

A market conduct examination of the United American Insurance Company was conducted in accordance with and pursuant to §§10-1-203 and 10-3-1106, Colorado Revised Statutes. This examination focused on the Company's Medicare supplement insurance business, involving a review of underwriting, rating, policyholder service, marketing, sales and claims practices. The Company records were examined at their offices, located at 3700 South Stonebridge Drive, McKinney, TX 75070-8080.

The time period covered by the examination was from July 1, 2003 through June 30, 2004.

The results of the examination, herein, are respectfully submitted.

Stephen E. King, CIE

Jo-Anne G. Fameree, CIE, FLMI, AIRC, ACS

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
UNITED AMERICAN INSURANCE COMPANY**

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COMPANY PROFILE

United American Insurance Company (“United American” or “Company”) was organized on June 13, 1947, as a limited capital stock insurance company offering life, health and accident insurance. Originally United American was incorporated in the state of Texas, and then redomiciled to the state of Delaware in 1982.

The Company commenced business on August 13, 1947. A license to transact business in the state of Colorado as a life insurance company was granted to the Company on December 11, 1981. The Colorado license authorized United American to conduct accident, health and general life business.

Globe Life And Accident Insurance Company, a wholly owned subsidiary of Torchmark, purchased all of the outstanding common stock of United American, on December 31, 1981. Torchmark acquired United American as a direct subsidiary, on December 31, 1981.

COMPANY OPERATIONS AND MANAGEMENT

The Company is licensed to transact business in all states, except New York. The Company is also licensed in the District of Columbia and Canada.

United American primarily markets life and health insurance products to seniors, which includes guaranteed renewable Medicare supplement and long-term care insurance.

The most current official figures available, for the state of Colorado, indicate that the Company reported approximately \$4,965, 000 of Medicare supplement insurance premiums earned in 2003, which represented a market share of approximately 3.5% of all Medicare supplement insurance sold in Colorado.

PURPOSE AND SCOPE OF EXAMINATION

Independent Examiners, contracting with the Colorado Division of Insurance (DOI), in accordance with Colorado Insurance Law, §§ 10-1-201, 10-1-203 and 10-1-204.C.R.S., which allows the Commissioner the discretion and authority to schedule and conduct examinations for the purpose of auditing business practices of insurers, reviewed certain business practices of the United American Insurance Company. The findings in this report, including all work products developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance laws related to Medicare supplement insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

Examiners conducted the examination in accordance with procedures developed by the Colorado Division of Insurance, based on model procedures developed by the National Association of Insurance Commissioners. Examiners have relied primarily on records and materials maintained by the Company, generally covering the examination period from July 1, 2003, through June 30, 2004.

The examination included review of the following:

- Company Operations / Management
- Marketing and Sales
- Producers
- Underwriting - Forms / Policyholder Services
- Underwriting - Rating
- Underwriting - Applications
- Underwriting - Cancellations
- Claims

This examination report is a report written by exception. References to any practices, procedures or files, that contained no improprieties, were omitted. Therefore, the majority of the material reviewed may not be addressed in this report. In the course of the examination, Examiners provided the Company with Examination Memorandums and Comment Forms to obtain information, ask questions and/or address noted discrepancies. When Examiners issue either form, the Company is required to provide a detailed response. Generally, only the Comment Form will cite a specific statute or regulation when a potential non-compliant situation is identified.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When utilizing a sampling technique to select a sample file population for review, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic or if, as a result of the file selection process, it was not possible to determine an exception percentage, an error tolerance percentage was not utilized. Also, if more than one sample population was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

Examination findings may result in administrative action by the Division of Insurance. During the course of the examination, all unacceptable or non-complying practices of the Company may not have been discovered. However, failure to identify specific Company practices does not constitute acceptance of such practices. The contents of this report should not be construed to either endorse or discredit any insurance company or product.

EXAMINERS' METHODOLOGY

In accordance with §10-1-203, Colorado Revised Statutes, examiners reviewed the Company's business practices to determine compliance with Colorado insurance laws and regulations, as they pertain to Medicare supplement insurance companies, as shown in the following exhibit.

Exhibit 1

Law/Regulation	Concerning
Section 10-1-108	Duties of Commissioner – reports – publications – fees – disposition of funds - adoption of rules.
Section 10-1-109	Rules and regulations of commissioner
Section 10-1-111	Grounds and procedure for suspension or revocation of certificate or license of entities.
Section 10-1-128(6)(a)	Anti-fraud Plan
Sections 10-2-1001 to 10-2-1101	Managing General Agent Act
Section 10-2-103	Licenses - General Provisions - Definitions
Sections 10-2-401 to 10-2-417	Licenses – Licensing and Appointment of Insurance Producers
Sections 10-2-701 to 10-2-704	Licenses – Business Conduct of Licensees
Section 10-3-105	Certificate of Authority
Section 10-3-109	Reports, statements, assessments, and maintenance of records - publication - penalties for late filing, late payment, or failure to maintain.
Sections 10-3-1101 to 10-3-1104	Unfair Competition – Deceptive Practices
Sections 10-18-101 to 10-18-109	Medicare Supplement Insurance
Regulation 1-1-7	Market Conduct Record Retention
Regulation 1-1-8	Penalties And Timelines Concerning Division Inquiries And Document Requests
Regulation 1-2-9	Fees Charged by Agents/Brokers
Regulation 2-1-7	Concerning Issuance of a Certificate of Authority
Regulation 4-3-1	Minimum Standards for Medicare Supplement Policies

Company Operations / Management

Examiners verified the Certificate of Authority and reviewed Company management, administrative controls, as well as record retention practices.

The Company's cooperation during the course of the examination was noted.

Marketing and Sales

Examiners reviewed all thirty-nine (39) marketing and sales pieces used in the State of Colorado during the examination period. Examiners verified that all materials had been submitted to the Colorado Division of Insurance. Additionally, the content of the material was reviewed to ensure compliance with Colorado insurance law and to verify that the Company's products were accurately represented.

Producers

Examiners reviewed producer contracts and commission structures used during the examination period. In addition, commission records were reviewed to ensure that all producers receiving commissions, or a percentage of premiums, were properly licensed.

Underwriting – Forms / Policyholder Services

Examiners reviewed all forms used during the examination period, as provided by the Company, to ensure the forms were filed and approved by the Colorado Division of Insurance. Additionally, compliance with current Colorado insurance law was verified.

New Business Underwriting Practices and Rating

Examiners randomly selected a sample population of fifty (50) individual new business files from a population of eighty-six (86). The Company did not have any group new business.

Examiners randomly selected a sample population of fifty (50) individual renewed policy files from a population of 1,775. Examiners reviewed all three (3) Colorado resident enrollment files that were renewed during the examination period, from all group policyholders having covered members residing in Colorado.

Underwriting – Cancellations / Declinations / Rescissions

Examiners randomly selected a sample of fifty (50) individual cancellation files from a population of 213 and reviewed all eleven (11) individual and all five (5) group declination files. Additionally, all three (3) individual rescinded files were reviewed.

Each file was reviewed to ensure that both fair and consistent underwriting practices were used, timely notifications were given and when applicable, premium refunds were timely and accurate.

Claims

Examiners randomly selected a sample of 100 individual paid claim files and fifty (50) individual denied claim files from a population of 57,666 and 1,960 files, respectively. In addition, Examiners randomly selected a sample of fifty (50) group paid claims files from a population of 2,308 files. A review of all forty-nine (49) group denied claims files was performed.

Examiners evaluated the Company's claims handling guidelines and specific claim file information, to determine timeliness of processing and accuracy of payment.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of three (3) findings in which the Company did not appear to be in compliance with Colorado insurance law. The following summarizes the Examiners' findings.

Company Operations / Management: In the area of Company Operations and Management, no compliance issues or concerns were identified and thus are not addressed in this report.

Marketing and Sales: In the area of Marketing and Sales, no compliance issues or concerns were identified and thus are not addressed in this report.

Producers: In the area of Producers, Examiners found one (1) area of concern. The issue identified was:

- Failure to provide reasonable compensation to producers for Medicare Supplement Insurance sold during open enrollment to individuals who are under the age of 65 and eligible for Medicare,

Underwriting – Forms / Policyholder Services: In the area of Forms and Policyholder Services, Examiners found one (1) area of concern. The issue identified was:

- Failure to include a policy provision that provides for a refund of unearned premium, when a policy is replaced by another Medicare supplement carrier or a request for cancellation is made by the insured.

New Business Underwriting Practices and Rating: In the area of New Business Underwriting Practices and Rating, no compliance issues or concerns were identified and thus are not addressed in this report.

Underwriting – Cancellations: In the area of Cancellation refunds, Examiners found one (1) area of concern. The issue identified was:

- Failure, in some cases, to provide a full refund of unearned premium in the case of death.

Claims: In the area of Claims, no compliance issues or concerns were identified and thus are not addressed in this report.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

MARKET CONDUCT EXAMINATION REPORT

FACTUAL FINDINGS

UNITED AMERICAN INSURANCE COMPANY

<p><u>PRODUCERS</u></p>

Issue D1: Failure to provide reasonable compensation to producers for Medicare Supplement Insurance sold during open enrollment to individuals who are under the age of 65 and eligible for Medicare.

Colorado Regulation 4-3-1, Minimum Standards for Medicare Supplement Policies, states in part:

...Section 10, Open Enrollment

I. A Medicare supplement carrier shall provide reasonable compensation, as provided under the plan of operation of the program, to a producer, if any, for the sale, during the open enrolment periods described in subsection (B) of this section, of a Medicare supplement insurance policy or certificate...

The Company had three agent compensation contracts that were in effect during the examination period. The compensation levels under these agreements are as follows:

1. Standard H94 PC07 which was in effect from January 1, 2004 to the present, provides for a 22% commission on Individual Medicare Supplement policies and 0% commission on Disability Medicare Supplement Plan – Guarantee Issue
2. Standard H94 which was in effect from September 14, 2000 until December 31, 2003, provided for a 22% commission on Individual Medicare Supplement policies and 0% commission on Disability Medicare Supplement Plan – Guarantee Issue
3. GSP PC07 which was in effect from February 22, 2000 to the present, provides for a 40% (new) 20% (renewal) commission for Individual Medicare supplement first time applicants under the age of 66 (except Disability Medicare) and applicants age 66 & over, disability Medicare, and 0% (new and renewal) commissions for Disability Medicare Supplement Plans – Guaranteed Issue.

Based on the commission structure in place during the examination period, which does not allow for any compensation on Disability Medicare Supplement Plans that are guarantee issue, it appears that the Company is not in compliance with the requirements of item I, Section 10 of Colorado Regulation 4-3-1.

Recommendation No. 1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Regulation 4-1-3. In the event the Company is unable to show such proof; it should provide evidence to the Division of Insurance that it has taken steps to ensure that reasonable compensation is provided for the sale of Open Enrollment Disability Medicare Supplement Plans in compliance with Colorado insurance law.

UNDERWRITING – FORMS/POLICYHOLDER SERVICES

Issue E1: Failure to include a policy provision that provides for a refund of unearned premium when a policy is replaced by another Medicare supplement carrier or a request for cancellation is made by the insured.

Colorado Regulation 4-3-1, Minimum Standards for Medicare Supplement Policies, states in part:

Section 6. Policy Provisions

D. All Medicare supplement insurance policies shall provide for a refund of unearned premium, when the policy is replaced by another Medicare supplement carrier or given a request for cancellation by the insured.

Upon reviewing the Company's individual and group policy/certificate forms, Examiners found that the forms did not contain language consistent with the requirements of Colorado Regulation 4-3-1, Section 6(D). Therefore, it appears that the Company's forms were not in compliance with the requirements of Colorado Regulation 4-3-1.

Recommendation No. 2:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Regulations 4-3-1. In the event the Company is unable to show such proof; it should provide evidence to the Division of Insurance that it has taken steps to ensure that the appropriate provisions are incorporated into the Company forms to ensure compliance with Colorado insurance law. Additionally, the required filings should be made with the Division of Insurance.

<p><u>UNDERWRITING - CANCELLATIONS</u></p>

Issue H1: Failure, in some cases, to provide a refund of unearned premium in the case of death.

Section 10-3-1104 C.R.S. Unfair methods of competition and unfair or deceptive acts or practices.

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(m) Failure to make promptly a full refund or credit of all unearned premiums to the person entitled thereto upon termination of insurance coverage;

Cancellation Files

Population	Sample Size	Number of Exceptions	Percentage to Sample
213	50	12	24%

A sample of fifty (50) cancellation files from a population of 213, contained twelve (12) exceptions (24%) in which the Company failed to provide a refund of unearned premium in the case of the insured's death. As indicated in issue E1 of this report, the Company's policy/certificate forms do not include language addressing premium refunds, nor do the forms define earned or unearned premium.

The Company's current procedure, with regard to cancellation refunds is to allow a refund of premium if an individual cancels his/her coverage. However, when the cancellation is the result of an insured's death, the Company provides a refund of premium only when the insured's representative specifically requests a refund. If no request for a refund is made, none is provided.

Of the files in which cancellation resulted from the insured's death, refunds were provided in twenty-one (21) cases, amounting to \$13,668.33. However, in twelve (12) additional cases where the cancellation also resulted from the insured's death, no refund was issued by the Company. Examiners determined that approximately \$5,625.54 would have been refunded to the estates of the policyholders if the Company had issued refunds in these cases. One (1) additional file did not contain the policyholder's date of death and thus Examiners were unable to determine if a refund was appropriate in this case.

When coverage is cancelled as a result of the insured's death, it appears that the determination regarding whether a refund is issued is dependent on the insured's representative requesting a refund. Based on the preceding information, it appears that the Company has failed to comply with the requirements of 10-3-1104 C.R.S., as outlined above.

Recommendation No. 3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of 10-3-1104 C.R.S. and Regulations 4-3-1. In the event the Company is unable to show such proof; it should provide evidence to the Division of Insurance that it has taken steps to ensure that all unearned premiums are refunded to the appropriate individuals whenever insurance coverage is terminated, including at the death of the insured, as required by Colorado insurance law. The Company should work with the Division of Insurance to identify and provide a refund of all unearned premiums that have not previously been refunded.

SUMMARY OF ISSUES AND RECOMMENDATIONS

ISSUES	Rec. No.	Page No.
PRODUCERS		
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Independent Market Conduct Examiners

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